IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D ER

Bhinya Ram & Ors. v. State of Raj. & Ors.

S.B.CIVIL WRIT PETITION NO.940/1991
under Article 226 of the Constitution of India.

Date of order : 4th April, 2005

P R E S E N T

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. J.L.Purohit, for the petitioners.
Mr. Shyam Ladrecha, Addl.Govt.Advocate.

BY THE COURT :

This writ petition is directed against the judgment dated 3.8.1989 passed by Board of Revenue, Rajasthan, Ajmer in Ceiling Appeals No.487/84 and 575/84. By the judgment impugned dated 3.8.1989 the Board of Revenue held that 103 bighas of land instead of 152 bighas and 3 biswas of land in excess to the ceiling limits was required to be resumed from the petitioners.

The Additional Collector, Nagaur by an order dated 16.6.1984 while deciding proceedings under Chapter III-B of the Rajasthan Tenancy Act, 1955 (hereinafter referred to as “the Act of 1955”) held that Shri Pannaram (father of petitioners) was entitled to retain 486 bighas of barani second land out of total 589 bighas of land

owned by him. Accordingly Shri Pannaram was to surrender 163 bighas of land being in excess of ceiling limits. The Additional Collector at the same time also decided proceedings under Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973 (hereinafter referred to as “the Act of 1973”) against Shri Pannaram. In the proceedings under the Act of 1973 the Additional Collector held that Shri Pannaram was entitled to keep only 447 bighas of land and, therefore, an order for acquisition of 152 bighas 3 biswas of land was passed under the Act of 1973.

The present petitioners being legal representatives and heirs of Shri Pannaram preferred two appeals before the Board of Revenue, Rajasthan, Ajmer. The Board of Revenue by judgment impugned decided the appeals holding that under the Act of 1973 Shri Pannaram was entitled to retain 560 bighas of land and, therefore, only 29.13 bighas of land was found in excess. However, learned member, Board of Revenue, Rajasthan, Ajmer held that under Chapter III-B of the Act of 1955 Shri Pannaram was entitled to retain 486 bighas of land. The Board of Revenue by application of second proviso to Section 4 of the Act of 1973 came to the conclusion that the land is resumable under Chapter III-B of the Act of 1955 and the petitioners were required to surrender 103 bighas of land instead of 152 bighas and 3 biswas of land as held by Additional Collector, Nagaur. The land in excess was found by learned member, Board of

Revenue, Rajasthan, Ajmer treating nine members in family of Shri Pannaram. The petitioners being aggrieved by the judgment passed by Board of Revenue has preferred the present writ petition.

The contention of the petitioners is that learned Board of Revenue computed ceiling area by taking into consideration the number of members of the family but at the same time failed to compute the ceiling area in accordance with the provisions of Section 30-C of Chapter III-B of the Act of 1955 read with Rule 19 of the Rajasthan Tenancy (Fixation of Ceiling on Land) (Government) Rules, 1963 (hereinafter referred to as “the Rules of 1963”). According to counsel for the petitioners that in light of provisions of Section 30-C of Chapter III-B of the Act of 1955 and Rule 19 of the Rules of 1963 land was required to be measured on the basis of soil classification of land recorded in revenue records and thereafter holding limits were required to be examined. According to counsel for the petitioners no such finding has been recorded by the Board of Revenue, Rajasthan, Ajmer.

I have gone through the judgment impugned passed by Board of Revenue.

The Board of Revenue by judgment impugned held the petitioners liable to surrender 103 bighas of land being in excess then the ceiling limits. While reaching to the conclusion

the learned member, Board of Revenue, Rajasthan, Ajmer has not given any finding as required to be given in light of Section 30-C of Chapter III-B of the Act of 1955 read with Rule 19 of the Rules of 1963.

Under these circumstances the writ petition is disposed of. The order impugned passed by the Board of Revenue dated 3.8.1989 is quashed. The matter is remanded to the Additional Collector for a fresh decision in light of the provisions of Section 30-C of Chapter III-B of the Act of 1955 read with Rule 19 of the Rules of 1963 after giving notice to all concerned. The parties shall maintain status quo as existing till a final decision is reached by the Additional Collector.

(GOVIND MATHUR),J.

kkm/ps.